

in paragraph (b)(4) by the shot or shot coating must not be significantly greater than those caused by steel shot. Percentage data is subject to an arcsine, square root transformation prior to statistical analyses. Physiological and reproductive data is analyzed by one-tailed *t*-tests ($\alpha=0.05$), or other appropriate statistical procedures by the applicant.

(ii) After conclusion of Tier 3 testing, the applicant must report the results to the Director. If after review of the Tier 3 data (completion 60 days after receipt of material) the Service determines that all of the information gathered and submitted in accordance with Tiers 1, 2, and 3, as applicable, does not establish that the shot or shot coating does not impose a significant danger to migratory birds, other wildlife, and their habitats, the applicant will have the option of repeating the tests that the Director deems are inconclusive. If the applicant chooses not to repeat the tests, approval of the candidate shot or shot coating is denied. A *Notice of Review* will inform the public that Tier 3 results are inconclusive, the applicant's decision not to repeat Tier 3 testing, and the Service's subsequent denial of the shot or shot coating.

(iii) If review of either the initial or repeated Tier 3 test data results in a preliminary determination that the shot or shot coating does not impose a significant danger to migratory birds, other wildlife and their habitats, the Director will publish in the FEDERAL REGISTER a proposed rule stating the Service's intention to approve this shot or shot coating and providing the public with the opportunity to comment. The rulemaking will include a description of the chemical composition of the shot or shot coating and a synopsis of findings under the standards required by Tier 3. If at the end of the comment period, the Service concludes that the shot or shot coating does not impose a significant danger to migratory birds, other wildlife, or their habitats, the shot or shot coating will be approved as nontoxic with publication of a final rule in the FEDERAL REGISTER.

(5) *Residual lead levels.* The Service's maximum environmentally acceptable level of lead in shot is trace amounts or <1 percent. Any shot manufactured

with lead levels equal to or exceeding 1 percent are considered toxic and, therefore, illegal.

(6) *Field detection device.* Before approval of any shot for use in migratory game bird hunting, a noninvasive field testing device must be available for enforcement officers to determine the shot material in a given shell in the field.

(Information collection requirements approved by the Office of Management and Budget under control no. 1018-0067)

[51 FR 42100, Nov. 21, 1986, as amended at 62 FR 63611, Dec. 1, 1997]

Subpart M—Criteria and Schedule for Implementing Nontoxic Shot Zones for the 1987–1988 and Subsequent Waterfowl Hunting Seasons

SOURCE: 51 FR 42107, Nov. 21, 1986, unless otherwise noted.

§20.140 Purpose and scope.

The regulations of this subpart apply to the designation, implementation and enforcement of nontoxic shot zones for waterfowl hunting in the United States for the 1987–1988 and subsequent hunting seasons. The regulations of this subpart do not apply to the issuance of regulations under part 21 of this title or under subparts A through J and L and N of this part.

§20.141 Definitions.

As used in this subpart:

(a) *Nontoxic Shot* means any shot-type that does not cause sickness and death when ingested by migratory birds as determined by criteria established under §20.134. The only nontoxic shot currently approved by the Director, U.S. Fish and Wildlife Service, is steel shot.

(b) *Nontoxic Shot Zones* means all land and water areas within the boundaries of the United States where the use of nontoxic shot is required for waterfowl hunting. A zone may be all or part of a county designated and/or established for nontoxic shot use.

(c) *Waterfowl* means the Anatidae (ducks, geese [including brant], and swans) and coots (*Fulica americana*).